

UNITED STATES DISTRICT COURT

Northern District of California

San Francisco Division

KATHLEEN M. LUCAS, et al.,

No. C 11-01581 LB

Plaintiffs,

v.

**ORDER (1) TO SHOW CAUSE AND  
(2) SETTING A FURTHER CASE  
MANAGEMENT CONFERENCE**

HERTZ CORPORATION,

[Re: ECF No. 99, 100]

Defendants.

Kathleen Lucas and Dan Martin (collectively, “Plaintiffs”) filed the instant action against car rental company Hertz Corporation (“Hertz”). Notice of Removal, ECF No. 1 at 5-12 (“Complaint”).<sup>1</sup> Hertz filed counterclaims for equitable indemnity, apportionment, and declaratory relief against Mr. Martin. Amended Answer and Counterclaims, ECF No. 42. Ms. Lucas and Mr. Martin (as a plaintiff) are represented by attorney Cynthia McGuinn; Mr. Martin (as a counterdefendant) is represented by attorney Steven Toschi; and Hertz is represented by attorneys John Ranucci and Liza Siu Mendoza.

On June 21, 2012, the court granted Hertz’s motion to compel Mr. Martin to arbitrate his claims pursuant to an arbitration agreement incorporated by reference into the car rental agreement that Mr. Martin signed. 6/21/2012 Order, ECF No. 53. This left Ms. Lucas’s claims against Hertz and Hertz’s counterclaims against Mr. Martin pending before this court. Ms. Lucas apparently agreed to

<sup>1</sup> Citations are to the Electronic Case File (“ECF”) with pin cites to the electronic page number at the top of the document, not the pages at the bottom.

1 settle her claims against Hertz, but, to date, the parties have yet to file a stipulation of dismissal of  
2 her claims. *See* 1/23/2013 Minute Order, ECF No. 93; 2/21/2013 CMC Statement, ECF No. 98 at 4.  
3 In addition, Hertz has stated that it will dismiss its counterclaims against Mr. Martin, but, to date, the  
4 parties have yet to file a stipulation of dismissal of these claims, either. *See* 2/21/2013 CMC  
5 Statement, ECF No. 98 at 6 n.1.

6 The court noted these outstanding dismissals in its order staying this case while Mr. Martin's  
7 claim is in arbitration. 2/25/2013 Order, ECF No. 99 at 2. To keep track of the case, the court also  
8 ordered the parties (i.e., all of them) to file a joint status update no later than May 30, 2013. *Id.* at 3.

9 On May 30, 2013, Mr. Martin (as a counterdefendant) and Hertz filed a status update. 5/30/2013  
10 Status Update, ECF No. 100. Ms. Lucas and Mr. Martin (as a plaintiff) did not join in the statement.  
11 With respect to Ms. Lucas's claims against Hertz (which, again, she apparently agreed to settle),  
12 Hertz sent Ms. Lucas a "Release of Claims & Settlement Agreement" on March 28, 2013, but it still  
13 is awaiting the return of the executed agreement. *Id.* at 2. With respect to the dismissal of the  
14 claims that are not in arbitration, Hertz sent Ms. Lucas and Mr. Martin a proposed stipulation and  
15 order of dismissal on March 28, 2013, but it "only heard back from [Mr. Toschi, counsel for Mr.  
16 Martin (as a counterdefendant)], who accepted the proposed language" of it. *Id.* Mr. Martin (as a  
17 counterdefendant) and Hertz state that when Ms. Lucas returns the executed settlement agreement  
18 and the stipulation and order of dismissal, the case can be dismissed. *Id.*

19 Due to Ms. Lucas's and Mr. Martin's (as a plaintiff) failure to participate in the status update, the  
20 court **ORDERS** their counsel, Ms. McGuinn, to show cause why she should not be sanctioned for  
21 her failure to comply with the court's 2/25/2013 order. She may do so by filing a written response  
22 no later than June 7, 2013.

23 In addition, the court **SETS** a Further Case Management Conference for August 1, 2013 at 11:00  
24 a.m. in Courtroom C, 15th Floor, United States District Court, 450 Golden Gate Avenue, San  
25 Francisco, California, 94102. The parties shall file a joint case management conference statement  
26 no later than July 25, 2013.

**IT IS SO ORDERED.**

Dated: May 31, 2013



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LAUREL BEELER  
United States Magistrate Judge